



PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

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October 28, 2022

Agenda ID #21099
Ratesetting**TO PARTIES OF RECORD IN RULEMAKING 21-03-001:**

This is the proposed decision of Administrative Law Judge Jason Jungreis. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's December 1, 2022 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, ex parte communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ MICHELLE COOKE

Michelle Cooke

Acting Chief Administrative Law Judge

MLC:sgu

Attachment

Decision **PROPOSED DECISION OF ALJ JUNGREIS** (Mailed 10/28/2022)**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Rulemaking to Set
Wildfire Fund Non-Bypassable Charge
in 2022 and 2023.

Rulemaking 21-03-001

**DECISION ADOPTING TIMING AND AMOUNT OF
2023 WILDFIRE FUND NON-BYPASSABLE CHARGE****Summary**

This decision adopts a \$0.00530/kWh rate amount for the 2023 Wildfire Fund Non-Bypassable Charge to collect a \$866.7 million revenue requirement for January 1, 2023, through December 31, 2023.

This proceeding is closed.

1. Background

Assembly Bill (AB) 1054 (Ch. 79, Stats. 2019) was enacted as an urgency measure to address increased risk of catastrophic wildfires in California, the electric utilities'¹ exposure to financial liability, and ratepayer costs.² On July 12, 2019, the Governor signed AB 1054.³ Public Utilities (Pub. Util.) Code Sections 1701.8 and 3280 *et seq.* define the Wildfire Fund, and Pub. Util. Code Section 3289 directed the California Public Utilities Commission (Commission) to

¹ In this decision, the terms "utility" and "electrical corporation" are used interchangeably.

² For the legislative intent of AB 1054 referred to here, *see* Stats. 2019, ch. 79, § 1(a).

³ Companion bill AB 111 (Ch. 81, Stats. 2019) was also enacted.

consider whether it should exercise its authority to require certain electrical corporations to collect from ratepayers a non-bypassable charge to support California's new Wildfire Fund.

On July 26, 2019, in response to Pub. Util. Code Section 3289, the Commission issued Order Instituting Rulemaking (R.) 19-07-017. On October 24, 2019, as a result of the R.19-07-017 proceeding, the Commission adopted Decision (D.) 19-10-056. That decision found that the imposition of a Wildfire Fund Non-Bypassable Charge (WF NBC) as contemplated by AB 1054 was just and reasonable.

On July 16, 2020, the Commission adopted D.20-07-014. That decision considered and approved servicing orders between the large electrical corporations and the California Department of Water Resources (DWR). The servicing orders approved by that decision allow the large electrical corporations to act as agents of DWR and collect and remit to DWR the proceeds of the WF NBC in order to assure that those monies will be available to carry out the uses outlined in AB 1054.

On September 24, 2020, the Commission adopted D.20-09-023, which considered and approved the amount of the initial WF NBC. The decision directed the large electrical corporations -- San Diego Gas & Electric Company (SDG&E), Pacific Gas and Electric Company (PG&E), and Southern California Edison Company (SCE) (jointly identified here as the investor-owned utilities, or IOUs) -- to begin charging eligible electricity customers a WF NBC. The WF NBC rate for the year 2020, beginning October 1, 2020, and running through to December 31, 2020, was set in the amount of \$0.00580/kilowatt-hour (kWh).

On December 21, 2020, the Commission adopted D.20-12-024. That decision set the WF NBC rate amount for the year 2021, and also closed

R.19-07-017. The decision set the WF NBC rate for the year 2021, beginning January 1, 2021, and running through to December 31, 2021, in the amount of \$0.00580/kWh for eligible electricity customers, and also directed a new Rulemaking proceeding be initiated to set the WF NBC rate amount in 2022 and 2023.

On March 10, 2021, the Commission issued Order Instituting Rulemaking 21-03-001 (R.21-03-001). On June 8, 2021, the assigned Commissioner issued a scoping memo in this proceeding that set forth the issues and schedule for this proceeding and determined that an evidentiary hearing was not necessary. R.21-03-001 is responsive to the procedure established in D.20-12-024 to set the WF NBC rate amount for 2022 and 2023.

On December 6, 2021, the Commission adopted D.21-12-006, which considered and approved the amount of the 2022 WF NBC. The decision directed the IOUs to charge eligible electricity customers a WF NBC for the year 2022. The decision set a WF NBC rate, beginning January 1, 2022, and running through to December 31, 2022, in the amount of \$0.00652/kWh.

In a document dated September 2, 2022, DWR sent the Commission a 90-Day Notice regarding the 2023 WF NBC. DWR asked the Commission to adopt a 2023 WF NBC rate in the amount of \$0.00537/kWh, to be charged by the IOUs to eligible electricity customers, beginning January 1, 2023, and running through December 31, 2023. On September 7, 2022, the assigned Administrative Law Judge (ALJ) issued a Ruling, with the DWR 90-Day Notice attached, seeking party comment regarding the 90-Day Notice by September 23, 2022, with further opportunity for reply comments. The Ruling expressly noted that the 2023 WF NBC may be based upon the 90-Day Notice. No party comments were filed.

On October 3, 2022, DWR sent the Commission a 60-Day Notice regarding the 2023 WF NBC. DWR updated its calculations found in the 90-Day Notice and asked the Commission to adopt a 2023 WF NBC in the amount of \$0.00530/kWh,⁴ to be charged by the IOUs to eligible customers, beginning January 1, 2023, and running through December 31, 2023.

2. Issues Before the Commission

As defined in the scoping memo, this proceeding is solely intended to consider the amount of the WF NBC in 2022 and 2023. For this year's iteration, and in keeping with the DWR Notices, this proceeding considers the revenue requirement and rate amount of the WF NBC for 2023. In accordance with R.21-03-001, this proceeding will close with the issuance of this decision.

3. Discussion

3.1. History of the WF NBC

The imposition of the WF NBC was found to be just and reasonable by the Commission in D.19-10-056.⁵ That decision held that the WF NBC is to be collected on a dollar per kWh basis to ensure consistency with AB 1054,⁶ and that the combined annual revenue requirement for the WF NBC is to be \$902.4 million.⁷ D.19-10-056 also adopted a Rate Agreement between the Commission and DWR that bound the Commission to calculate, revise from time to time, and impose a WF NBC sufficient to fund at all times the \$902.4 million annual revenue requirement.

⁴ The statutory annual necessary revenue requirement is \$902.4 million: it is projected that there will be a total excess collection of \$35,700,000 through 2022, which explains this lower 2023 \$866.7 million revenue requirement figure.

⁵ D.19-10-056, Conclusion of Law 21.

⁶ D.19-10-056 at 25.

⁷ D.10-10-056, Ordering Paragraph 3.

D.19-10-056 directed a process to enable an annual proceeding to establish an annual WF NBC determination process.⁸ For the purpose of considering the 2023 WF NBC, this decision adopts a process similar to that used to consider the 2021 and the 2022 WF NBCs, namely the submission of DWR Notices to the Commission before the imposition of the WF NBC in 2023, which contain the following elements:

- The revenue requirement for the WF NBC for the year 2023.
- The electricity sales forecast for all anticipated participating large electrical corporations for 2023.
- DWR's calculation of the resulting 2023 WF NBC rate amount for eligible electricity customers subject to the WF NBC pursuant to D.19-10-056.

The process outlined above is a reasonable way to calculate and approve the amount of the WF NBC for 2023 and for future years, based upon the direction found in D.19-10-056. This proceeding will consider this year's DWR 90-Day Notice and 60-Day Notice. The 60-Day Notice fits the description provided in the paragraph above and provides adequate information to determine the appropriate rate amount for the 2023 WF NBC.

Generally stated, DWR calculates the annual WF NBC rate to achieve the annual \$902.4 million revenue requirement based both on submissions from the IOUs and on its own information regarding its actual WF NBC collections. DWR also tracks under-collection or over-collection amounts remitted to it for each year, and uses this information as an additional component of its proposed WF NBC rate amount for the ensuing year. Based upon all of this information, DWR then calculates and proposes the WF NBC rate amount for the ensuing

⁸ D.19-10-056 at 32.

year, as stated in its annual 90-Day Notice and 60-Day Notice to the Commission and to the Service List in this proceeding.

Based upon DWR's accounting, the need to square the accounting from the date of AB 1054's authorization, and to account for prior periods of under-collection and over-collection, the WF NBC rate in 2021 was \$0.00580/kWh and the WF NBC rate in 2022 was \$0.00652/kWh.

3.2. DWR's 60-Day Notice for 2023 WF NBC

On October 3, 2022, DWR sent its 60-Day Notice to the Commission and to this proceeding's Service List. It proposes that the 2023 WF NBC be set at a level of \$0.00530 per kWh to collect a 2023 revenue requirement of \$866.7 million, which, combined with the projected 2022 cumulative over-collection of \$35.7 million, will generate the \$902.4 million revenue requirement called for through operation of AB 1054.⁹ The \$0.00530/kWh rate proposal is a decrease from the \$0.00652/kWh rate set in 2022. DWR's 60-Day Notice also provided a detailed accounting for the year 2022.

The following are excerpts from DWR's 60-Day Notice:

Background on Assembly Bill 1054 (AB 1054)

AB 1054 also effectuates the end of the Bond Charge for the Power Supply Revenue Bonds (PSRB). It institutes the Wildfire NBC by directing the CPUC, through the IOUs, to impose Wildfire NBCs and collect Wildfire NBCs for deposit into the DWR Charge Fund in the same manner as the Bond Charge for the PSRBs. The Wildfire NBC Revenue Requirement should equal the average annual amount of Bond Charges for the PSRBs collected from January 1, 2013, through December 31, 2018, which is \$902.4 million per year.

Revenue Sufficiency

⁹ DWR 60-Day Notice at 5.

In respect to the Wildfire NBCs, DWR agrees, in the Wildfire Rate Agreement, to cooperate with and assist the CPUC in its determination, at least annually, of the Wildfire NBCs.

Pursuant to Section 3289 of the Pub. Util. Code, the CPUC is required to impose Wildfire NBCs in an amount sufficient to fund the Revenue Requirement for each Revenue Requirement Period, or the first and last Revenue Requirement Period, which is the pro rata portion thereof for such period.

The revenue projections compared to actuals are illustrated in... the table below [Footnote: The data for 2022 represents the receipt of the actual through August 31, 2022 and projected data for the remainder of 2022]...

Year	Projected and Actuals NBCs (\$millions)	Revenue Requirement NBCs (\$millions)	NBC rates
2020	140.6	225.6	\$5.80 per MWh
2021	894.8	902.4	\$5.80 per MWh
2022	1,030.8	902.4	\$6.52 per MWh
2023	866.7	902.4	\$5.30 per MWh
Total	2,932.8¹⁰	2,932.8	

Calculation of Wildfire NBC

In this 60-Day Notice, DWR is conveying to the CPUC its calculation of the Wildfire NBC for 2023 with the following estimated information: (1) the prior-period collection of the Revenue Requirement consistent with D.19-10-056, the Wildfire Rate Agreement, and AB 1054; (2) the electricity sales forecast for all IOUs for the remainder of 2022 and 2023; and (3) DWR's calculation of the resulting Wildfire NBCs for customers subject to the Wildfire NBCs pursuant to Decision 19-10-056.

For the period beginning January 1, 2023, through December 31, 2023, DWR requests that the CPUC direct the IOUs to initiate, on all non-exempt load delivered to ratepayers in the IOU service areas, the Wildfire NBC of

¹⁰ Numbers may not add exactly due to rounding.

\$5.30/MWh (\$0.00530/kWh) beginning on January 1, 2023, to collect the \$902.4 million Revenue Requirement pursuant to Decision 19-10-056 reflecting the prior-period collection variance as required by the Act and described in D. 19-10-056.¹¹

Assumptions Used in Calculating the Wildfire NBC

DWR sent data requests to the IOUs on July 5, 2022 and received responses to their data requests on or about August 5, 2022. The responses provide forecasted load at the customer meter for bundled load, direct access load, and community choice aggregation load with additional details for the load in these categories that would not be exempt from the Wildfire NBCs. Additionally, the IOUs were requested to provide an estimate of other departing load: municipal departing load, customer-generated departing load, and other departing load that would be classified as distributed generation. DWR reviewed these forecasts and compared them with the actual past loads...

To determine the 2023 Wildfire NBCs needed, DWR used a collection curve methodology. The collection curve methodology accounts for the lag between the time of the imposition of NBCs on customer bills and the customer cash remittances received by DWR. The monthly non-exempt loads forecasted to be billed to customers each month are multiplied by an assumed Wildfire NBC, resulting in a forecasted remittance accrual. This accrual amount is then reduced by a forecasted uncollectible factor. On average, the time between the imposition of charges and the collection of revenues from such charges is 30 days. Using both the collection curve and the uncollectible factor, the Department then calculates the NBC that produces \$902.4 million plus any over or under-collection in prior periods that is projected to be

¹¹ The 2023 NBC is projected to collect \$866.7 million, which is \$35.7 million less than the \$902.4 million requirement due to the projected over collection in 2022 [footnote as in original].

sufficient, on a cash basis, to meet the Revenue Requirement as specified in the Act.

Revenue Sufficiency

As previously noted, DWR concurs in the Wildfire Rate Agreement respective to the Wildfire NBCs, to cooperate with and assist the CPUC in its determination, at least annually, of the Wildfire NBC. Under Section 3289 of the Public Utilities Code, the CPUC is required to impose Wildfire NBCs in an amount sufficient to fund the Revenue Requirement for each Revenue Requirement Period, or the first and last Revenue Requirement Period, the pro rata portion thereof for such period.

3.3. Analysis of DWR's 60-Day Notice for 2023 WF NBC

In review of the detailed contents of DWR's 60-Day Notice, it is clear that DWR projected the 2023 WF NBC amount using estimates of the eligible kWh sales expected during 2023. Thus, the effort is to address, in 2023, the need to establish a WF NBC amount that provides a sufficient revenue requirement by the end of 2023, as intended by Pub. Util. Code Section 3289.

The 2023 sales estimates were based upon the results of data provided by the IOUs. The responses to the data requests provide forecasted load at the customer meter for bundled load, direct access load, and community choice aggregation load with additional details for the load in these categories that would not be exempt from the WF NBC.

DWR calculated the amount of the WF NBC in 2023 by using a "collection curve methodology." DWR reported that it took the estimated eligible kWh sales for 2023 provided to DWR by the IOUs, and then multiplied that figure by an assumed WF NBC amount to determine a forecasted remittance accrual, and then reduced this accrual amount by a forecasted uncollectible factor. The

resulting net remittance accrual amount was then projected to be received as cash 30 days later by DWR.

DWR also took into consideration past under-collections and over-collections from 2021 and 2022. The projected total \$35.7 million net over-collection through 2022 accounts for the decrease in the proposed 2023 WF NBC rate, down to \$0.00530/kWh for the collection of the \$902.4 million revenue requirement adopted in D.19-10-056 pursuant to AB 1054.

In its 60-Day Notice, DWR restated its obligation under the Rate Agreement to notify the Commission each year regarding the annual collections received by DWR with respect to the WF NBC revenue requirement and the amount of excess or deficiency in collections above or below the revenue requirement. The 60-Day Notice also points out that under the terms of the Rate Agreement, the Commission will undertake within 60 days to adjust the WF NBC in the subsequent year to reflect any excess or deficiency reported by DWR.¹² In short, the Commission must act promptly in issuing this decision to provide the necessary direction regarding the setting of the 2023 WF NBC.

3.4. Approval 2023 WF NBC and IOU Implementation

DWR's 60-Day Notice provides the revenue requirement for the WF NBC for the year 2023, the electricity sales forecast for the IOUs for 2023, and DWR's calculation of the resulting 2023 WF NBC rate amount for eligible customers subject to the WF NBC pursuant to D.19-10-056. Therefore, DWR's 60-Day Notice provides the Commission with sufficient information to set the WF NBC rate amount for 2023. In light of the reasonableness of the information submitted by DWR, this decision finds that it is reasonable to set the 2023 WF NBC rate

¹² DWR 60-Day Notice at 3-4.

amount as \$0.00530/kWh, and the IOUs shall charge this WF NBC rate amount during 2023 to eligible customers subject to the WF NBC as defined in D.19-10-056.

By no later than December 31, 2022, each of the IOUs shall file a Tier 1 Advice Letter with the Commission's Energy Division to implement the 2023 Wildfire NBC rate amount as defined by this decision.

4. Comments on Proposed Decision

The proposed decision in this matter was mailed to the parties in accordance with Section 311 of the Pub. Util. Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

5. Assignment of Proceeding

Clifford Rechtschaffen is the assigned Commissioner and Jason Jungreis is the assigned ALJ in this proceeding.

Findings of Fact

1. The annual revenue requirement adopted by D.19-10-056 for the WF NBC is \$902.4 million.
2. The net over-collection for the WF NBC from prior years totals a projected \$35.7 million.
3. The total 2023 WF NBC collection revenue requirement is \$866.7 million.
4. The data provided by DWR to calculate the 2023 WF NBC may be relied upon by the Commission to adopt the 2023 WF NBC and set the 2023 WF NBC rate amount to be collected from eligible electricity customers.

5. DWR has proposed a 2023 WF NBC rate amount of \$0.00530/kWh, to be collected from January 1, 2023, to December 31, 2023, which DWR projects to be sufficient to fund the WF NBC revenue requirement by the end of 2023.

Conclusions of Law

1. The imposition of the WF NBC was found to be just and reasonable by the Commission in D.19-10-056.

2. The WF NBC is to be collected from eligible electricity customers on a dollar per kWh basis to ensure consistency with AB 1054.

3. DWR's 60-Day Notice provides the Commission with sufficient information to set the revenue requirement for the WF NBC for 2023.

4. It is reasonable to set the WF NBC rate amount as \$0.00530/kWh for 2023.

5. Pursuant to the R.21-03-001 Order Instituting Rulemaking, this proceeding is to be closed this year, and a new rulemaking proceeding must then be opened to provide for 2024 and subsequent WF NBC collections.

O R D E R

IT IS ORDERED that:

1. Southern California Edison Company shall charge the Wildfire Fund Non-Bypassable Charge to eligible customers as defined by Decision 19-10-056 from January 1, 2023, to December 31, 2023, in the amount of \$0.00530 per kilowatt-hour.

2. Southern California Edison Company shall file a Tier 1 Advice Letter with the Commission's Energy Division implementing the 2023 Wildfire Fund Non-Bypassable Charge as defined by this decision no later than December 31, 2022.

3. San Diego Gas & Electric Company shall charge the Wildfire Fund Non-Bypassable Charge to eligible customers as defined by Decision 19-10-056

from January 1, 2023, to December 31, 2023, in the amount of \$0.00530 per kilowatt-hour.

4. San Diego Gas & Electric Company shall file a Tier 1 Advice Letter with the Commission's Energy Division implementing the 2023 Wildfire Fund Non-Bypassable Charge as defined by this decision no later than December 31, 2022.

5. Pacific Gas and Electric Company shall charge the Wildfire Fund Non-Bypassable Charge to eligible customers as defined by Decision 19-10-056 from January 1, 2023, to December 31, 2023, in the amount of \$0.00530 per kilowatt-hour.

6. Pacific Gas and Electric Company shall file a Tier 1 Advice Letter with the Commission's Energy Division implementing the 2023 Wildfire Fund Non-Bypassable Charge as defined by this decision no later than December 31, 2022.

7. Rulemaking 21-03-001 is closed.

This order is effective today.

Dated _____, 2022, at San Francisco, California.